

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BOBACK SABEERIN and S.S.,

Plaintiffs,

v.

No. 1:16-cv-00497-JCH-LF

ALBUQUERQUE POLICE DEPARTMENT, et al.,

Defendants.

ORDER DENYING MOTION FOR LEAVE TO APPEAL IN FORMA PAUPERIS

THIS MATTER comes before the Court on Plaintiff Boback Sabeerin's ("Plaintiff") Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees, Doc. 201, filed May 3, 2021 ("Motion").

“In order to succeed on [a motion for leave to proceed on appeal without prepayment of costs or fees], an appellant must show a financial inability to pay the required filing fees and the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal.” *DeBardeleben v. Quinlan*, 937 F.2d 502, 505 (10th Cir. 1991). “An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). “The Supreme Court has held that good faith is to be judged by an objective standard, for review of any issue ‘not frivolous.’” *Spearman v. Collins*, 500 Fed.Appx. 742, 743 (10th Cir. 2012) (citing *Coppedge v. United States*, 369 U.S. 438, 445 (1962)). “An appeal is frivolous when the result is obvious, or the appellant’s arguments of error are wholly without merit.” *Id.*; see also *Thompson v. Gibson*, 289 F.3d 1218, 1222 (10th Cir. 2002) (“an appeal is frivolous if it lacks an arguable basis in either law or fact”).

Plaintiff has shown a financial inability to pay the required filing fees but has not shown the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal. Where the form "Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees" prompts a party to state their issues on appeal, Plaintiff states:

I am appealing the court[']s final judgment Docket 197 with regaurd [sic] to defendants['] entitlement to Qualified immunity[,] Defendants['] Violation of my Constitutional Rights, illegal Search and Siezure [sic], false arrest, false imprisonment.

Motion at 2. Plaintiff's Notice of Appeal states in its entirety: "Notice is hereby given that the above named case is being appealed on the final judgment made by this Court." Doc. 198 at 1, filed April 30, 2021. The Court concludes that Plaintiff's appeal is not taken in good faith and that his request for leave to appeal *in forma pauperis* must be denied because he has not identified "the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal." *DeBardeleben*, 937 F.2d at 505.

IT IS ORDERED that Plaintiff Boback Sabeerin's Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees, Doc. 201, filed May 3, 2021 is **DENIED**.

THE COURT CERTIFIES that Plaintiff's appeal is not taken in good faith.



SENIOR UNITED STATES DISTRICT JUDGE